

REFERENCE TITLE: county land divisions; access

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1390

Introduced by
Senator Flake

AN ACT

AMENDING SECTION 11-809, ARIZONA REVISED STATUTES; RELATING TO COUNTY PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-809, Arizona Revised Statutes, is amended to
3 read:

4 11-809. Review of land divisions: definitions

5 A. The board of supervisors of each county may adopt ordinances and
6 regulations pursuant to this section for staff review and approval of land
7 divisions of five or fewer lots, parcels or fractional interests, any of
8 which is ten acres or smaller in size. The county may not deny approval of
9 any land division that meets the requirements of this section. If review of
10 the request is not completed within thirty days after receiving the request,
11 the land division is considered to be approved. ~~At its option, the board of
12 supervisors may submit a ballot question to the voters of the county to allow
13 the voters to determine the application of subsections B and C to qualifying
14 land divisions in that county.~~

15 B. An application to split a parcel of land shall be approved if:
16 1. The lots, parcels or fractional interests each meet the minimum
17 applicable county zoning requirements of the applicable zoning designation.
18 2. The applicant provides a standard preliminary title report or other
19 acceptable document that demonstrates legal access to the lots, parcels or
20 fractional interests.

21 3. The applicant provides a statement from a licensed surveyor or
22 engineer, or other evidence acceptable to the county, stating whether each
23 lot, parcel or fractional interest has physical access that is traversable by
24 a two-wheel drive passenger motor vehicle.

25 4. The applicant reserves the necessary and appropriate ROAD EASEMENTS
26 AND utility easements to serve each lot, parcel or fractional interest
27 created by the land division. FOR PUBLIC SAFETY PURPOSES AND TO ACHIEVE
28 CONNECTIVITY OF EASEMENTS, THE COUNTY MAY SPECIFY THE LOCATION OF THE
29 EASEMENTS ON THE AFFECTED PARCEL.

30 C. An application to split a parcel of land that does not comply with
31 one or more of the items listed in subsection B shall still be approved if
32 the applicant provides an acknowledgment that is signed by the applicant and
33 that confirms that no building or use permit will be issued by the county
34 until the lot, parcel or fractional interest has met the requirements of
35 subsection B. The county may grant a variance from one or more of the items
36 listed in subsection B.

37 D. Any approval of a land division under this section may:
38 1. Include the minimum statutory requirements for legal and physical
39 on-site access that must be met as a condition to the issuance of a building
40 or use permit for the lots, parcels or fractional interests.

41 2. Identify topographic, hydrologic or other site constraints,
42 requirements or limitations that must be addressed as conditions to the
43 eventual issuance of a building or use permit. These constraints,
44 requirements or limitations may be as noted by the applicant or through

1 county staff review, ~~but there shall be no requirement for independent~~
2 ~~studies.~~

3 3. INCLUDE A REQUIREMENT FOR A DRAINAGE STUDY TO ASSESS WHETHER
4 DRAINAGE IMPROVEMENTS MAY BE NECESSARY TO PREVENT RUNOFF FROM AFFECTING
5 ANOTHER PROPERTY.

6 E. If the requirements of subsections A through D do not apply, a
7 county may adopt ordinances and regulations pursuant to this chapter for
8 staff review of land divisions of five or fewer lots, parcels or fractional
9 interests but only to determine compliance with minimum applicable county
10 zoning requirements and legal access, and may grant waivers from the county
11 zoning and legal access requirements. The county may not deny approval of
12 any land division that meets the requirements of this section or where the
13 deficiencies are noticed in the deed. A county may not require a public
14 hearing on a request to divide five or fewer lots, parcels or fractional
15 interests, and if review of the request is not completed within thirty days
16 from receipt of the request, the land division shall be deemed approved. If
17 no legal access is available, the legal access does not allow access by
18 emergency vehicles or the county zoning requirements are not met, the access
19 or zoning deficiencies shall be noticed in the deed. If a county ~~by~~
20 ~~ordinance~~ requires a ~~legal access of more than twenty-four~~ DEVELOPED ROADWAY
21 OF MORE THAN TWENTY-SIX feet ~~roadway~~ IN width, the county is responsible for
22 the improvement and maintenance of the improvement. If the legal access does
23 not allow access to the lots, parcels or fractional interests by emergency
24 vehicles, neither the county nor its agents or employees are liable for
25 damages resulting from the failure of emergency vehicles to reach such lot,
26 parcel or fractional interest.

27 F. It ~~shall be~~ IS unlawful for a person or group of persons acting in
28 concert to attempt to avoid the provisions of this section or the subdivision
29 laws of this state by acting in concert to divide a parcel of land into six
30 or more lots or sell or lease six or more lots by using a series of owners or
31 conveyances. This prohibition may be enforced by any county where the
32 division occurred or by the state real estate department pursuant to title
33 32, chapter 20.

34 G. ~~In~~ FOR THE PURPOSES OF this section:

35 1. "Legal access" means a public right of vehicular ingress and egress
36 between the lots, parcels or fractional interests being created.

37 2. "Minimum applicable county zoning requirements" means the minimum
38 acreage and dimensions of the resulting lot, parcel or fractional interest as
39 required by the county's zoning ordinance.

40 3. "ROAD EASEMENT" MEANS SPACE ON A LOT OR PARCEL OF LAND THAT IS
41 RESERVED OR USED FOR GENERAL ACCESS.

42 ~~3.~~ 4. "Utility easement" means an easement of eight feet in width
43 dedicated to the general public to install, maintain and access sewer,
44 electric, gas and water utilities.